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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
Federal Communications Commission  
Washington DC 20554

In the Matter of

Proposed Amendment of the  
Commissions Rules Concerning  
Maritime Communications.

PR Docket 92-257  
Second Further Notice  
of Proposed Rule Making

To: Secretary  
Federal Communications Commission  
1919 M. Street  
Washington DC 20554

Petition to Deny

Fred Daniel d/b/a/ Orion Telecom (Orion), by its attorneys, submits this Petition to Deny, with respect to a Petition for Reconsideration ("Petition") filed by WJG MarTel Corporation, in response to the *Second Report and Order* ("Order") in the above referenced proceeding in which the Federal Communications Commission ("FCC") adopted rules to promote operational, technical, and regulatory flexibility in the Maritime Services<sup>1</sup>

I. INTRODUCTION

<sup>2</sup> Orion is licensed by the Federal Communications Commission (FCC) to provide AMTS maritime CMRS services on the East, West and Gulf Coasts of the United States.

<sup>3</sup> Orion Telecom contends that WJG MarTel Corporation ("MarTel") has had available to it ample opportunity, during the Comment and Reply Comment stages of the original Docket 92-257, and the Further Notice of Proposed Rule Making in this same proceeding, to make its position on the requirement

<sup>1</sup> In the matter of Amendment of the Commission's Rules Concerning Maritime Communications, PR Docket 92-257, Second Report and Order and Second Further Notice of Proposed Rule Making (released June 26, 1997)

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for operators, as well as a possible requirement for licensees to provide a plan as to how "maritime" originated priority calling was to be accomplished, known to the Commission. These issues are not new to this Second Further Notice of Proposed Rule Making ("Second Notice") and as such MariTel's Petition for Reconsideration should be denied.

<sup>4</sup>Notwithstanding, the untimeliness of MariTel's Petition, the current position taken by MariTel is contrary to that placed before the Commission by MariTel in earlier submissions, prior to the Second Report and Order.

<sup>5</sup>MariTel had argued that permitting automated interconnection will benefit vessel operators by increasing calling capabilities, increasing privacy, and reducing communications costs<sup>2</sup>. In paragraph 3 of its petition MariTel applauds the Commission's effort to reduce regulatory burdens in the Maritime Service and to promote rules that will allow public coast station licensees to compete with other commercial mobile radio service providers ("CMRS").

<sup>6</sup>Orion contends that the issues relevant to the Second Notice are well known, as this has been an open proceeding since 1992.

## **II. DISCUSSION**

### **A. Availability of an Operator to Handle Emergency Situations**

<sup>7</sup>Orion contends that the Commission has adequately outlined the conditions, when an operator may be required in a VHF automated system, by stating that in such cases where other federal, state, or local authorities do not cover 95% of the VHF public coast station's service area, that there continues a requirement for an operator. The Order is quite explicit in that it provides the criteria the licensee may apply, to determine when an operator is required. This requirement has no application to AMTS operations.

<sup>8</sup>Orion understands that MariTel's position may be different to AMTS service providers or many other VHF public coast station operators. MariTel states that it has 146 stations and these are, according to Commission records, spread over a large area from Puget Sound to Southern Calif; New York to Key West; and along the inland waterway system. Orion understands it may be extremely difficult for MariTel to achieve the 95% coverage requirement in many of the areas the company serves. Thus, MariTel by using a single switching facility in Gulfport, MS. may, under the current rules, be required to maintain very expensive telephone circuits, or other facilities, to meet this operator requirement.

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<sup>2</sup> See MariTel Comments at 5, to the Further Notice of Proposed Rule Making.

<sup>9</sup>The Commission has intended, from the inception of AMTS, that AMTS systems are by their very nature automated, integrated systems. This is also the case with all other automated CMRS type services such as cellular, PCS, SMR and ESMR. Maritime subscribers to AMTS systems have full access to the public switched network ("PSTN"), giving direct dial access to any individual, business, or federal, state, or local organization. *AMTS services have never been a manual service, therefore have never had a manual operator requirement.*

<sup>10</sup>Any suggestion by MariTel that the Commission should impose this anti-competitive burden on AMTS systems would not support the Commission's stated policy of regulatory symmetry for automated CMRS services. Accordingly, Orion recommends that any reference to "AMTS" services in MariTel's proposed wording for Part 80.179 (d), should be omitted.

**B. The Commission Should Require Public Coast Station Applicants and Licensees to Submit Plans Demonstrating How They Will Afford Priority to Maritime Originating Communications**

<sup>11</sup>Orion contends that the current rules, as adopted in the Second Report and Order are adequate and direct. It has been the Commission's intent to decrease, not increase, the unnecessary regulatory and licensing burdens currently imposed on all CMRS providers.

<sup>12</sup>Orion fully understands its primary role as an AMTS provider is to serve the maritime community. All our AMTS systems have been designed with this goal in mind. To our knowledge there has never been a single complaint from maritime subscribers regarding availability of service. The current licensing procedures for AMTS services are already significantly more complex, than those associated with other CMRS services, due to AMTS licensees' requirement to mitigate interference to TV reception on channels 10 and 13. MariTel's suggestion for a further technical showing will unnecessarily increase system establishment costs, affecting the cost of our service to subscribers.

<sup>13</sup>Even though MariTel made extensive Comments to the Further Notice Of Proposed Rule Making ("FNPRM"), it failed to raise the issue in a timely and responsive manner. The Commission gave full consideration to all Comments and Reply Comments to the FNPRM and left the decision, as to the technology to be implemented to provide marine originated call priority, up to the licensee. Orion supports this decision.

<sup>14</sup>MarTel's Petition on these items, at this late stage, is viewed by Orion as an attempt to commercially advantage itself, by imposing unnecessary burdens on its direct AMTS competitors.

### III CONCLUSION

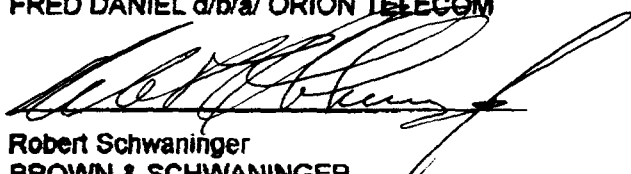
<sup>15</sup>Orion supports the reform of the maritime rules currently underway and Orion requests that the Commission; 1) Confirm that AMTS services have from the onset been, and remain, fully automated, integrated systems; 2) AMTS subscribers have full PSTN access, and as such are capable of directly contacting any individual, or federal, state or local agency 24 hours per day, 365 days per year; thus negating the need for any live operator; 3) that no complaints regarding unavailability of service from maritime customers have been substantiated; and 4) that the requirement to provide the Commission with a priority call handling plan is a unwarranted and unnecessary further regulatory burden.

<sup>16</sup>WHEREFORE, THE PREMISES CONSIDERED, Orion Telecom hereby request the Commission to deny MarTel's Petition for Reconsideration on; a) the requirement for operator services; b) the requirement to provide a plan for the priority handling of maritime originated traffic.

Respectfully submitted

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